

resell yellow pages service and indeed is not permitted to resell yellow pages service under its current resale agreement with Verizon-NJ.⁸² Verizon-NJ has also improperly billed ATX for voice-mail and inside wiring maintenance, although Verizon-NJ has consistently refused to make either of these services available for resale.⁸³ As another example, Verizon-NJ imposes improper taxes and Universal Service Fund (“USF”) fees on ATX, even though ATX has demonstrated on several occasions that it is exempt from these charges by providing Verizon-NJ with tax-exempt certificates.⁸⁴

Verizon-NJ has ought to minimize these problems by suggesting that these errors are insubstantial in amount, and at any rate, ATX has received billing credits.⁸⁵ Specifically, Verizon-NJ has argued that problem of stand-alone bills and the failure to include the resale discount only impacts 0.75% of ATX’s accounts and that “the sum total of all billing claims for the other items” amount to \$690.⁸⁶ The erroneous charges in Verizon-NJ’s bills amount to substantially more than Verizon-NJ has suggested. Moreover, in attempting to parse each error type into “negligible” amounts, Verizon-NJ misses the big picture. Collectively, the billing errors of all types have amounted to substantial dollars in erroneous charges. As just one example, between February 1999 and October 2001, ATX disputed approximately \$1.3 million throughout the Verizon region in charges on resale accounts due to acknowledged errors like those described above.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ ATX Dulin Decl. ¶ 24.

⁸⁵ Verizon-NJ FCC 271 McLean Decl ¶ 123; Verizon-NJ OSS Supp. Decl. ¶¶ 97-99, 101.

⁸⁶ Verizon-NJ FCC 271 McLean Decl. ¶ 123; *See also* Verizon-NJ OSS Supp. Decl. ¶¶ 97-99, 101.

Second, Verizon-NJ's provisioning of credits do not provide a solution to this problem. The direct financial impact of overcharges is substantial, but the amount of overcharges are just part of the problem. Also significant are the imposed operational costs. Because of Verizon-NJ's repeatedly erroneous charges in its bills, ATX has an obligation to its customers and its shareholders to audit bills closely, identify mistakes and seek remittance. If ATX does not audit these bills, erroneous charges could be passed on to customers unwittingly, thus improperly raising end-users' costs and tarring ATX's company image. Moreover, the sums described above are a significant part of ATX's operational costs, so it is incumbent upon ATX to take appropriate steps to retrieve those amounts.

The Commission has recognized this involuntary diversion of resources to auditing, reconciling and correcting Verizon-NJ bills adversely affects competitors' ability to focus on customer needs.⁸⁷ "Inaccurate or untimely wholesale bills can impede a competitive LEC's ability to compete in many ways . . . [for example] a competitive LEC must spend additional monetary and personnel resources reconciling bills and pursuing bill corrections."⁸⁸ This has certainly been true for ATX. ATX has had to dedicate 6 to 8 employees and hundreds of man-hours just to auditing bills. This process is further exacerbated because Verizon-NJ has not provided ATX with the billing information necessary to audit those bills -- information that Verizon has provided to ATX in New York in the form of validation reports in spreadsheet format, thus forcing ATX spend even more time reconciling the bills -- an outcome that is quite avoidable. In addition, ATX's senior management has had to dedicate countless hours to meetings and other efforts with Verizon-NJ in an attempt to correct these problems on a global

⁸⁷ *Pennsylvania 271 Order*, 16 FCC Rcd. 17419 ¶ 23 (citations omitted).

⁸⁸ *Id.*

and systemic level -- tasks that divert their attention from more important company initiatives.

ATX has on numerous occasions provided Verizon-NJ with examples of the types of errors that it routinely encounters. Instead of correcting the root causes of the errors in its systems,

Verizon-NJ instead continues to impose on ATX the role of auditor of Verizon-NJ's bills.

2. Verizon-NJ's Billing Practices Limit the Auditability of Wholesale Bills.

Verizon-NJ's billing practices hamper ATX's ability to audit wholesale bills. Instead of providing ATX with centralized wholesale billing via two master bills (one for residential customers and one for business customers), Verizon-NJ has repeatedly issued separate bills in paper (rather than electronic) form for individual customers, which do not all necessarily arrive at the same time.⁸⁹ These additional bills are for individual customers that have moved to ATX on a resale basis, but which Verizon-NJ's internal systems have not properly tracked. As a result, ATX does not have a central bill against which to verify its customers' service type, usage and costs. Moreover, the volume and uncoordinated timing of these multiple bills makes ATX's auditing and reconciliation process more lengthy and incongruous. Also, because the bills look like retail bills, they often do not contain the USF and tax exemptions or the resale discounts to which ATX is entitled.⁹⁰

Moreover, Verizon-NJ's recently deployed Billing Data Tape process also limits ATX's ability to audit its wholesale bills. For example, BDT aggregates monthly-based charges for ATX's UNE-P converted customers by end office code, rather than by each line number (and as a result the features associated with that line number).⁹¹ Because the bills do not indicate the

⁸⁹ ATX Dulin Decl. ¶ 25.

⁹⁰ *Id.*

⁹¹ ATX Dulin Decl. ¶ 27.

charges per line (effectively the charges per customer), it is more difficult for ATX to verify what Verizon-NJ is charging ATX to serve each individual customer. The ability to verify these charges is important for ATX's reconciliation of revenues and costs, as well as for billing purposes and usage reconciliation.⁹² In addition, based on its analysis of a small sample size, ATX is concerned that there is an inconsistency between Verizon-NJ's bills to ATX via the BOS BDT system and usage information that Verizon-NJ provides in the Daily Usage reports.⁹³ Usage reports measure the type and amount of BOC services that a competitive LEC's customer utilizes. Typically detailed in a Daily Usage File ("DUF"), these service usage reports enable competitive LECs to reconcile the usage data in this DUF against their own usage records in order to ensure that the BOC has only charged the competitive LEC for its customers' usage. Moreover, if the usage data in the DUF match the data in the BDT, which Verizon-NJ uses to bill ATX for its customers' usage, ATX can ensure that there is symmetry in the amount it pays Verizon-NJ and the amount it charges its customers.

In response to ATX's concerns, Verizon-NJ has not refuted that inconsistencies exist between its DUF and BDT. Moreover, although Verizon-NJ generally seeks to rely on the review of the BDT conducted by Price Waterhouse Coopers ("PWC") in the state proceeding, -- a review ATX does not view as dispositive -- PWC's review never sought to compare the BDT with the DUF.⁹⁴ Verizon-NJ's response instead is to suggest that audits to reconcile the

⁹² *Id.*

⁹³ *Id.* ATX notes that Verizon-NJ has an obligation to provide service usage reports that are complete, accurate and timely, and that are in substantially the same time and manner that Verizon-NJ provides that usage information to itself. *Pennsylvania 271 Order*, 16 FCC Rcd. 17419 ¶¶ 13-14. Verizon-NJ has this obligation because, as the FCC has recognized, service usage reports are "essential" to competitive LECs' accounting and customer management processes because the reports allow competitive LECs to track and bill the types and amounts of services used by their customers. *Id.* This obligation is independent of Verizon-NJ's obligations to provide accurate and auditable wholesale bills.

⁹⁴ *Consultative Report on the Application of Verizon New Jersey Inc. For FCC Authorization to Provide In-Region, InterLATA Service in New Jersey*, Docket No. TO0109054, Hearing Transcript at 61-62 (Nov. 8, 2001).

wholesale bills and the DUF are unnecessary as wholesale bills are “not intended to be the billing data the CLECs use to bill their own customers.”⁹⁵ Verizon-NJ’s response is irrelevant and simply wrong. Verizon-NJ has an obligation to provide an accurate BDT and an accurate DUF, regardless of whether carriers use either means (both of which have been recognized as legitimate by the FCC⁹⁶) to bill their customers. If both are accurate, both should contain the same usage information and carriers should be able to compare one with the other and find the same usage data.

In sum, based on ATX’s experience, the totality of the failures in Verizon-NJ’s wholesale billing are substantial, long-standing, and systemic.⁹⁷ For the past year and a half, ATX has experienced these failures in Verizon-NJ’s billing process without resolution.⁹⁸ ATX has attempted on numerous occasions to resolve these billing issues with Verizon-NJ.⁹⁹ Verizon-NJ has failed to correct these billing issues on a forward going basis, despite its promises to do so.¹⁰⁰ ATX has and continues to experience the same problems over and over again.¹⁰¹ Because of these failures in wholesale billing, Verizon-NJ has not provided ATX a meaningful opportunity to compete in the New Jersey local telephone market and its application is premature.

⁹⁵Verizon-NJ McLean FCC 271 Decl. ¶ 112; Verizon-NJ OSS Supp. Decl. ¶ 96.

⁹⁶ The FCC has already recognized that competitive providers do have the flexibility to use wholesale bills in this manner, and has specifically rejected Verizon-NJ’s attempts to limit how competitive providers calculate their customers’ bills. “Multiplying the usage on the DUF by the competitive LEC’s stated rates is not the only means of calculating a competitive LEC’s end-user bills. A competitive LEC might use other, equally legitimate methods to develop end-user bills, such as charging its customers a retail rate that is some percentage higher than the wholesale bill, or using other sources to ensure accuracy . . . Thus, contrary to Verizon suggestion, the provision of an accurate and timely DUF does not necessarily mean that competing carriers can collect revenues from their end users.” *Pennsylvania 271 Order*, 16 FCC Rcd. 17419 ¶ 14 n.41 (citations omitted).

⁹⁷ Decl. of Scott Dulin ¶¶ 16, 26.

⁹⁸ *Id.*

⁹⁹ Decl. of Scott Dulin ¶¶ 23, 26; ATX’s Response to Verizon-NJ Interrogatory #35 to ATX.

¹⁰⁰ Decl. of Scott Dulin ¶¶ 16, 18, 26.

¹⁰¹ *Id.*

CONCLUSION

The New Jersey local market is simply not competitive. Verizon-NJ has been and continues to be the dominant provider of services to most consumers in New Jersey. This is because Verizon-NJ's intransigence and the regulatory climate has made New Jersey one of the most difficult local markets for competitors to establish a foothold. In ATX's experience, Verizon-NJ has balked at compliance with the Act for the past year and a half, failing to provide ATX with complete access to UNE-P in a nondiscriminatory manner and failing to correct systemic billing problems. Verizon-NJ has not produced, either to this Commission or in the accelerated state proceeding, any commercial usage data or other probative evidence that demonstrates that it has ceased this anticompetitive behavior. Accordingly, ATX respectfully requests that the Commission reject Verizon-NJ's application to enter the New Jersey long distance market.

Respectfully Submitted,

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Dated: January 14, 2002

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October 19, 2001

BY MESSENGER

Frances L. Smith, Esq.
Secretary, Board of Public Utilities
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Newark, New Jersey 07102

Re: I/M/O the Consultative Report on the Application of Verizon
New Jersey Inc. for FCC Authorization to Provide In-Region,
InterLATA Service in New Jersey
Docket No. TO01090541

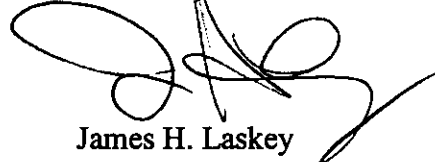
Dear Secretary Smith:

Enclosed for filing please find the original and ten copies of a Declaration of Scott Dulin on behalf of ATX Licensing, Inc.

Copies are being served on the service list electronically and by regular mail.

Very truly yours,

NORRIS, McLAUGHLIN & MARCUS



James H. Laskey

JHL/gw
enclosures

cc: Service List

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

In the Matter of Application of Verizon-NJ)	
New Jersey Inc. for FCC Authorization)	Docket No. TO01090541
to Provide In-Region, InterLATA Service)	
in New Jersey)	

**DECLARATION OF SCOTT DULIN
ON BEHALF OF ATX LICENSING, INC.**

PUBLIC VERSION

In the Matter of Application of Verizon-NJ New Jersey Inc. for FCC Authorization to Provide In-Region, InterLATA Service in New Jersey))))))	Docket No. TO01090541
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I, Scott Dulin, of lawful age, hereby declare the following under perjury of law:

2. I am responsible for, among other things, operational, technical and business issues relating to the planning, development and implementation of interconnection and related services obtained from the incumbent local exchange carriers (“ILECs”) from whom ATX purchases network elements and services. I am also responsible for the implementation and ongoing performance of the physical interconnection of ATX and Verizon – New Jersey Inc. (“Verizon-NJ”). In addition, I am currently responsible for overseeing the local exchange customer operations of ATX. I am involved in supporting regulatory and legislative initiatives to promote ILEC compliance. I currently co-lead (with the VP of Information Technology) an initiative to incorporate an enterprise wide systems solution to support a convergent technology based platform to support local service (resale/UNE) with traditional IXC offerings.

3. I have twelve (12) years management experience in the telecommunications industry. I have worked at ATX since 1988. I was promoted to Vice President of Business Operations in 1997. I formerly served in the capacity of Director of Business Operations of ATX beginning in 1995. Prior to that, I was Business Manager and Manager of Business Operations for ATX. During my tenure with ATX, I have been responsible for Central Office deployment and operations, network optimization and technical reliability underlying facility-based supplier contracts. I am also a director of the ACCA, the Associated Communications Companies of America, a consortium of interexchange carriers.

4. My Declaration provides information about ATX's experience in accessing UNE-P from Verizon-NJ. In addition, my Declaration provides information about ATX's experience with Verizon-NJ's billing system for the wholesale services that ATX has purchased from Verizon-NJ. Further, my Declaration discusses Verizon-NJ's pricing for the Enhanced Extended Link ("EEL"). Based on our company's experience, there are significant problems with Verizon-NJ's provision of UNE-P, billing capabilities and EEL's pricing, and these problems have been a hindrance to ATX's ability to offer competitive services to customers in New Jersey.

I. INTRODUCTION OF ATX.

5. ATX started its business in New Jersey by providing long distance service in the mid-1980s. After passage of the 1996 Act, ATX entered the local market by providing service to residential and business customers using resold services with the intent of migrating those customers to facilities-based service. Moving toward a facilities-based service strategy, in April of 1999, ATX completed the installation of its first switch in Pennsylvania and purchased collocation arrangements in New Jersey to provide service to New Jersey customers initially

using its Pennsylvania switch with the ultimate goal of deploying switch facilities in New Jersey as customer demand warrants.

6. Due to a variety of issues, ATX decided that, rather than convert all its resale customers directly to facilities-based service, ATX would first convert its existing resale customers to the UNE Platform (“UNE-P”), and in fact UNE-P is now a central component of ATX’s business plan, which ATX uses to target residential and business customers. ATX started its UNE-P product development in August of 2000 and has been attempting to convert many of its resale customers to UNE-P. ATX also intends to market services to new customers utilizing UNE-P.

7. Unfortunately, Verizon-NJ has imposed severe functional limitations on the UNE-P product that it has offered to ATX. Specifically, the UNE-P offering that Verizon has provided ATX contains less features and functionalities than those available to either ATX’s customers served via resale or Verizon-NJ’s retail customers. This deficiency impairs our ability to convert existing customers from resale to UNE-P or to market to new customers, thus foreclosing ATX’s ability to meet consumer’s existing demand for services utilizing a UNE-P based provisioning strategy.

II. VERIZON-NJ HAS EFFECTIVELY FAILED TO PROVIDE A COMMERCIALY REASONABLE UNE-P PRODUCT.

A. Verizon-NJ Fails To Provide a Centrex UNE-P Offering.

8. ATX provides resold Verizon-NJ Centrex service to many of its small business customers. In particular, ATX resells Verizon-NJ’s “Custo-Pac” Centrex service, which is a popular Verizon-NJ Centrex service. The critical, in-demand feature of this service is an “automatic dial 9” feature that allows customers to dial out without having to first dial 9. ATX currently provides this service on a resold basis to approximately [BEGIN PROPRIETARY

***** **END PROPRIETARY**] lines in New Jersey. When ATX attempted to convert these resale customers to a UNE-P Centrex offering, Verizon-NJ informed ATX that Verizon-NJ does not provide a UNE-P product with an automatic dial 9 feature. Verizon-NJ's failure to offer this feature, which customers prefer and demand, has stymied ATX's ability to convert this customer base to UNE-P as it is highly unlikely that a customer would be willing to convert to a product that contains fewer features than the customer is already obtaining and which would require a change in the customer's dialing plan. Thus, ATX has faced a no-win dilemma of either: (1) forgoing the benefits of using a UNE-P arrangement; or (2) converting customers to a UNE-P service that does not meet the customers' needs and in fact significantly alters the customers' dialing habits.

9. This is a critical shortfall in Verizon-NJ's UNE-P offering and denies ATX nondiscriminatory access to Verizon-NJ's unbundled network elements. ATX is unable to convert the approximately **[BEGIN PROPRIETARY ***** END PROPRIETARY]** customers' lines who currently obtain Custo-Pac service from ATX through resale. Moreover, ATX has been unable to market Centrex service to new customers and has thus been precluded from a segment of the market that is critical to ATX's business plan and ultimate success.

10. Verizon-NJ's failure to provide this offering is particularly disturbing since Verizon-NJ has proffered no clear legitimate rationale. Verizon-NJ has not claimed technical infeasibility. Moreover, Verizon-NJ obviously has the ability to provide this Centrex product, because Verizon-NJ currently provides Custo-Pac to its own customers and in fact provides it to ATX on a resale basis. Without the ability to provide customers with at least the level of service they could receive from Verizon-NJ, ATX is effectively precluded from utilizing UNE-P meaningfully to compete for a significant segment of small business customers in New Jersey.

11. ATX's experience with attempting to convert other Verizon-NJ resold services to UNE-P on an "as is" basis has revealed significant problems. ATX has been attempting to convert to UNE-P customers to whom it is providing POTS through resale. ATX will submit a convert as is request based on information contained in Verizon-NJ's customer service record ("CSR"). In approximately [BEGIN PROPRIETARY ***** END PROPRIETARY] of cases, the CSR incorrectly identifies customers as having lines when in fact they have trunks. Consequently, due to this inaccurate information in Verizon-NJ's database, ATX's orders are rejected, as Verizon-NJ does not permit "as is" conversions of customers served on trunks to a UNE-P arrangement. ATX is then put in the position of having to explain to its customer why a promised service cannot be delivered.

B. Verizon-NJ Fails to Provide PBX Trunks as part of a UNE-P Offering.

12. In addition, Verizon-NJ has also hampered ATX's ability to provide PBX service to customers using UNE-P. Typically, under a PBX arrangement, ATX utilizes analog PBX trunks to serve multiple customer stations or phones (concentrating the number of lines necessary to serve the customers needs), thereby efficiently providing service at a cost that is lower than that of providing a trunk for each customer. ATX has been providing such trunks on a resold basis to its customers. When ATX sought to convert its PBX customers to UNE-P, however, Verizon-NJ stated that it did not provide UNE-P analog trunks. Again, no particular reason was given for this failure. As a result, ATX again faces the untenable choice of: (1) forgoing the ability to take advantage of the UNE-P efficiencies to which it is lawfully entitled; or (2) forgoing the efficiencies of using a PBX service arrangement. Belatedly, Verizon-NJ has claimed that it will provide this UNE-P product region-wide by the end of February 2002. Nevertheless, Verizon-NJ's performance in this area does not give ATX the confidence that its

customers will be able to access PBX services via a UNE-P arrangement in the near future or that the conversions will go smoothly, and as a result, ATX is not assured that it will have a meaningful opportunity to compete as a local service provider in New Jersey through unbundled network elements.

C. Verizon-NJ Fails to Provide “As Is” UNE-P Conversion For Customers With Certain Service Features.

13. ATX has also experienced difficulty in converting a number of its customers with particular service features to UNE-P on an “as is” basis. An “as is” conversion process allows a carrier to convert a customer and provide that customer all the same features and functions that the customer was previously receiving through a simple billing change, rather than treating the converted customer as new to the system. Instead of a straight forward conversion process for customers that want no changes to their current service features, Verizon requires ATX to re-enter all of that customer’s service information on the conversion order form. This unnecessary re-keying of service descriptions increases the likelihood of errors and delays in the conversion process, which is a significant source of customer dissatisfaction. In contrast, the simplicity of the “as is” conversion process makes the customer’s service less subject to erroneous changes or disruption. Unfortunately, in ATX’s experience, Verizon-NJ will not conduct “as is” conversions for customers that have features such as remote call forwarding (“RCF”), a BRI or PRI ISDN service, or Foreign Exchange (“FX”) services. In ATX’s experience, Verizon-NJ’s Operations Support Systems (“OSS”) are simply not sufficiently robust to handle such conversions, and as a result, errors have occurred in the process of converting customers to ATX. Consequently, ATX is left to forgo its efforts to convert to UNE-P this substantial amount of resale customers that enjoy and rely on such features or subject these customers to a conversion process certain to result in customer disappointment.

* * * *

14. In sum, the inability to offer our customers Centrex or PBX services via a UNE-P arrangement not only impedes our ability to serve our existing customers more efficiently and retain those customers, but it also impacts our ability to market to new customers. These services are critical for many of our target customers. Under the current service provided to us by Verizon-NJ, however, ATX is unable to provide customers the Centrex or PBX features that they want via an efficient UNE-P offering, hence foreclosing our ability to access key markets. Moreover, Verizon-NJ's inability to allow seamless conversions of customers with FX, ISDN or RCF to UNE-P has also stymied our ability to utilize UNE-P for existing customers or marketing to potential customers. Overall, ATX estimates that these limitations preclude us from providing services to **[BEGIN PROPRIETARY ***** END PROPRIETARY]** of our target customer base. In addition, as a result of Verizon-NJ's UNE-P deficiencies, ATX cannot develop a comprehensive marketing and product strategy based on UNE-P. In short Verizon-NJ does not currently provide nondiscriminatory access to UNE-P products in a manner that enables carriers a meaningful opportunity to compete consistent with its statutory obligations. Instead, it has only provided commitments of future performance, and not the verifiable service performance that compliance with Section 271 of the Telecommunications Act demands.

D. Verizon-NJ's Anticompetitive UNE-P Rates Make UNE-P Effectively

15. Verizon-NJ's UNE-P rates also preclude ATX from competing effectively with Verizon-NJ. Verizon-NJ's UNE-P rates impose a price squeeze on ATX as it attempts to compete in New Jersey. Verizon's monthly recurring charges ("MRCs") for UNE-P exceed Verizon-NJ's retail rates, effectively precluding carriers from utilizing UNE-P to offer competitive services to lower usage customers. The predominant MRC component for UNE-P is

switching costs, which in New Jersey are some of the highest in the country and, in fact, are more than 2.5 times higher than the switching costs in Pennsylvania. This is particularly surprising since New Jersey's population density which is generally inversely correlated to forward looking network costs is one of the highest in the country. In utilizing UNE-P at these exorbitant rates, ATX's revenue for each customer for local services begins at less than its costs, and ATX is faced with the daunting challenge of mitigating this loss through long distance or other usage based charges.

III. VERIZON-NJ'S BILLING SYSTEMS ARE SUBSTANTIALLY DEFICIENT.

16. There are substantial, long-standing, systemic deficiencies in Verizon-NJ's billing system. For the past two years, these deficiencies have resulted in significant inaccuracies in virtually every bill that ATX has received from Verizon-NJ. Although Verizon-NJ will often admit its errors and, belatedly, provide some form of credit, Verizon-NJ has been unable to correct the problems on a going forward basis, despite promises to do so. Instead, the same problems occur over and over again.

17. Providing credits does not alleviate the problem. Competing providers need performance, not credits. For one thing, credits are often late in coming. Also, the credits appear as lump sums on the bills without any indication of which errors the credits are designed to rectify. This creates enormous reconciliation problems for ATX's staff. Moreover, ATX receives no interest for amounts erroneously collected. Perversely, however, Verizon-NJ charges an interest penalty for bills not paid, even where Verizon-NJ acknowledges the bills were in error. Most importantly, Verizon-NJ's repeated mistakes result in a substantial increase in operational costs in order to address billing inaccuracies. Credits cannot compensate for the wasted resources engendered by Verizon-NJ's persistent billing errors.

18. Over the past two years, ATX has repeatedly attempted to address its billing concerns with Verizon-NJ. ATX and Verizon-NJ have had periodic meetings in which ATX has presented the types of inaccuracies that appear in its bills. Yet, despite these efforts, ATX has received bills from Verizon-NJ that consistently contain the same errors. Indeed, in the instances where Verizon-NJ has acknowledged its errors, it only makes changes to those specific lines in ATX's past bills, yet appears unable or unwilling to make the necessary changes in its billings systems to prevent the same error from appearing on subsequent ATX bills.

19. Moreover, not only has ATX observed that Verizon-NJ's bills contain significant errors on a regular basis, the format of those bills limits ATX's ability to check for resolution of those errors. For example, if and when Verizon-NJ does credit ATX's accounts for these erroneous charges, Verizon-NJ does not identify the reason for the credit or the line-item charge associated with the credit. Rather, Verizon-NJ lumps together a series of credits from multiple monthly bills as a single line item with no identification or explanation. Further, when Verizon-NJ does give credits for erroneous charges, Verizon-NJ does not credit the interest penalties it charges ATX for non-payment of those erroneous charges.

20. In effect, rather than investing the time and resources to refine its system, Verizon-NJ has instead shifted to ATX the role of editing and auditing Verizon-NJ's bills. To compound this situation, Verizon-NJ effectively forces its own auditing responsibilities on ATX and then charges ATX a fee for undertaking that role when it imposes on ATX an interest penalty for failure to pay erroneous bills.

21. I include below a description of some of the systemic problems with Verizon-NJ's bills. These errors occur month-after-month, despite repeated attempts to resolve the problems.

22. *First*, the 1996 Act and our interconnection agreement obligate Verizon-NJ to provide a resale discount. Yet, for many customers, Verizon-NJ fails to consistently provide us this discount. Instead, Verizon-NJ bills ATX as if ATX were the retail customer.

23. *Second*, Verizon-NJ has repeatedly billed ATX for resold services that ATX has not ordered from Verizon-NJ and in fact, which Verizon-NJ does not even allow ATX to provide under our resale agreement. For example, Verizon-NJ consistently bills ATX for advertisements placed by ATX customers in Verizon-NJ's yellow pages, even though Verizon-NJ does not permit us to resell that service under our resale agreement. To date, Verizon-NJ has billed ATX for advertising for hundreds of customers. Other services that Verizon-NJ often bills ATX for are voicemail and inside wiring maintenance. Verizon-NJ refuses to make either service available for resale, yet continually includes them in its resale bills to ATX. We have raised this issue with Verizon-NJ on numerous occasions, but these charges continue to appear.

24. *Third*, Verizon-NJ consistently imposes improper taxes and Universal Service Fund ("USF") charges on the resale purchases, despite our repeated demonstrations (and submission of tax-exempt certificates) that ATX is exempt from these charges.

25. *Fourth*, Verizon-NJ submits an unnecessarily large and uncoordinated number of individual bills each month. Verizon-NJ should provide ATX with two master bills, one for residential customers and one for business customers. Yet, instead of sending just these two bills, Verizon-NJ often sends a separate bill for each individual customer. These additional bills are for individual customers that have moved to ATX on a resale basis but which Verizon-NJ's internal systems have not properly tracked. These additional bills are in paper format, not electronic, and often contain billing errors. For example, they often do not reflect ATX's USF and tax exemptions or the resale discount to which ATX is entitled.

26. The billing problems that ATX has experienced with Verizon-NJ are systemic problems that have been repeated in billing cycles throughout the past two-years. ATX has repeatedly alerted Verizon-NJ to these problems and discussed these issues thoroughly, and Verizon-NJ has repeatedly acknowledged these mistakes and promised to fix them in the future. Yet, to date, Verizon-NJ has only responded with unmet promises. Given the systemic nature of these failures and the substantial costs that they impose on ATX, ATX cannot foresee how Verizon-NJ can meet its obligation to provide nondiscriminatory access to OSS until these billing deficiencies are corrected.

27. Finally, ATX notes that Verizon-NJ has recently begun to provide electronic billing through the Billing Data Tape (“BDT”). ATX’s overall experience with Verizon’s billing systems, as well as its initial experience with this BDT system together forewarn of continued and substantial problems with Verizon-NJ’s newly implemented BDT billing system. Although ATX has had a very limited amount of time to evaluate the system, one major problem has already been identified. The BDT aggregates monthly-based charges only for a particular end office, rather than for each line number (and as a result the features associated with that line number). By aggregating charges by end office, ATX cannot track the costs of serving each individual customer for billing purposes and for usage reconciliation. Furthermore, ATX’s experience with Verizon-NJ’s BDT to date raises concerns that Verizon-NJ’s billing system is not accurately providing ATX information on its customers’ usage. Although the sample size has been small to date, the usage reflected in the Daily Usage reports is not consistent with the usage contained in Verizon’s bills for UNEs as reflected in the BDT. ATX is continuing to work with Verizon to further evaluate this issue, but to date Verizon has not been able to alleviate ATX’s concerns in this regard. These BDT problems coupled with the systemic billing problems

that have been plaguing ATX for the past two years cast significant doubt on Verizon-NJ's compliance with its obligation to allow ATX a meaningful opportunity to compete in the local market in New Jersey.

IV. VERIZON HAS FAILED TO PROVIDE EELS AT REASONABLE RATES.

28. In addition to providing local service through resale and UNE-P, ATX has also deployed its own switches to provide service to customers, including its switch in Pennsylvania used to serve New Jersey customers. A particularly efficient way for ATX to use its switches to provide service is to combine its switch facilities with the loop/transport combination called the enhanced extended link or EEL. EELs are an efficient way to provide competitive, switched-based service because they avoid the need for ubiquitous collocation. Unfortunately, ATX's ability to provide switched-base service in New Jersey is hampered due to the inexplicably excessive costs of DS-1 transport in Verizon-NJ's EELs offering. The cost for the DS-1 transport component of EELs in New Jersey is four times as great as it is in Pennsylvania. In Pennsylvania, the nonrecurring charge for DS-1 transport is \$357.97, but in New Jersey it is \$737.17. The monthly recurring charges for DS-1 transport in Pennsylvania is \$35.22, but in New Jersey it is \$146.30. Overall, the price for an EEL that includes a DS3 HUB, cross-connection/multiplexing, DS-1 transport and a DS-1 loop -- the typical configuration that ATX would use -- is 46% higher in New Jersey than in Pennsylvania. Due to the high cost of EELs, the market that ATX can economically serve in New Jersey utilizing its own switches is greatly diminished. Again, this forecloses for ATX a meaningful opportunity to compete.

29. This concludes my Declaration.

VERIFICATION

I, Scott N. Dulin, Senior Vice President of Network Services for ATX Licensing/ Inc., affirm that the foregoing Testimony is true and correct.

Executed on _____.



Scott Dulin

WDC 225387v3

ATTORNEY'S CERTIFICATION

The undersigned hereby certifies that the declarant has acknowledged the genuineness of his signature affixed to the foregoing declaration, and that the document or a copy with an original signature will be filed if requested by the Board or a party to this proceeding.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.


James H. Laskey

Dated: October 19, 2001.

VERIFICATION

I, Bruce Bennett, Vice President - External Affairs for ATX Licensing, Inc., affirm that the foregoing statements in the initial comments are true and correct.

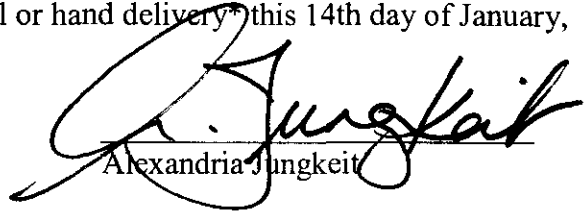
Executed on 14 Jan, 2002.



Bruce Bennett

CERTIFICATE OF SERVICE

I, Alexandria Jungkeit, do hereby certify that copies of the foregoing Comments of ATX Licensing, Inc. were served on the following by either U.S. First Class Mail or hand delivery* this 14th day of January, 2002.



Alexandria Jungkeit

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